

February 22, 2011

STATE OF NEW JERSEY

EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 3143

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3143 (First Reprint) with my recommendations for reconsideration.

This legislation would establish new criteria for determining eligibility for urban transit hub tax credits for mixed use real estate projects that consist of a total investment of at least \$50 million. Under current law, there are two mutually exclusive urban transit hub tax credits available for real estate projects with a total investment of at least \$50 million. The first program provides up to a 100% tax credit over 10 years for the business facility portion of an eligible project. The second program provides a 20% tax credit over 10 years for the residential portion of an eligible project. This legislation would authorize mixed-use projects to qualify separately for the business facility and the residential urban transit hub tax credits for each portion of the project.

I commend the sponsors of this legislation for seeking to encourage mixed-use developments, which can offer many benefits to the local community in urban areas. Rather than seeking to revise the sponsors' legislation, I am returning this bill with the recommendation of adding additional reforms that will allow other urban transit hub projects to proceed.

As detailed below, I am recommending that this legislation be revised to amend the requirements under current law that urban transit hub projects reserve 20% of their housing stock for occupancy by low and moderate income households. I am advised that this requirement is currently delaying urban transit hub projects from moving forward.

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The urban centers covered under this legislation have generally provided an abundance of affordable housing and are in dire need of economic revitalization. Therefore, I am returning this legislation with the recommendation that it be amended to provide that urban transit hub projects should not be required to set aside more than 10% of their housing stock as affordable housing. A 10% affordable housing set-aside for new residential development is consistent with the recommendations of the Housing Opportunity Task Force I appointed through Executive Order 12. It offers a simple, straightforward approach to affordable housing, without the incomprehensible quotas and bureaucratic nightmare of the Council on Affordable Housing.

Additionally, this legislation should be amended to allow for a developer to seek a waiver from the Executive Director of the Economic Development Authority when it can be established that the project is not economically feasible without a waiver, or from the Commissioner of the Department of Community Affairs when it can be established that there already exists a sufficient affordable housing stock within the host municipality.

Accordingly, I herewith return Assembly Bill No. 3143
(First Reprint) and recommend that it be amended as follows:

Page 11, Line 23:

Insert new section:
"5. a. Notwithstanding the provisions of section 18 of P.L.2008, c.46 (C.52:27D-329.9), or any other law or regulation to the contrary, no mixed use project or qualified residential project consisting of newly-constructed residential units shall be required to reserve more than 10 percent of the residential units for occupancy by low or moderate income households.

b. Notwithstanding the provisions of section 18 of P.L.2008, c.46 (C.52:27D-329.9), or any other law or regulation to the contrary, the developer of a mixed use project or qualified residential project may apply to the executive director of the Economic Development Authority for a full or partial waiver from the 10 percent requirement in subsection a, which waiver may be granted by the executive director upon showing by the developer that a project would not otherwise be economically feasible.

c. Notwithstanding the provisions of section 18 of P.L.2008, c.46 (C.52:27D-329.9), or any other law or regulation to the contrary, the developer of a mixed use project or qualified residential project may apply to the Commissioner of the Department of Community Affairs for a full or partial waiver from the 10 percent requirement in subsection a, which waiver may be granted by the Commissioner upon showing by the developer and the host municipality that the municipality's present housing stock is comprised of at least seven and one-half percent price restricted units. For purposes of this section, a "price restricted unit" means a residential dwelling unit that is price restricted, including, but not limited to: units that are deed restricted for occupancy by residents of low or moderate income; price restricted pursuant to covenants established for units financed by federal Low Income Housing Tax Credits; price restricted pursuant to covenants established for units developed pursuant to the "Neighborhood Revitalization State Tax Credit Act," P.L.2001, c.415 (C.52:27D-490 et seq.); units rehabilitated as either a sending or receiving municipality under a regional

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contribution agreement, and
subject to price controls;
units built or
rehabilitated as part of a
Community Development Block
Grant, and subject to price
controls; housing units
operated by a Public
Housing Authority; units
constructed, rehabilitated,
or receiving project-based
assistance under the
program authorized pursuant
to section 8 of the United
States Housing Act of
1937."

Page 11, Section 5, Line 24:

Delete "5." and insert "6."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor